

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA**

Walter W. Cartwright, III,

Plaintiff,

vs.

Dave Krabbenhoft, et. al.,

Defendants.

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**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

Case No. 1:22-cv-025

The Plaintiff, an inmate at the North Dakota State Penitentiary, initiated this *pro se* civil rights action on February 11, 2022. See Doc. No. 1. The complaint was filed on February 22, 2022. See Doc. No. 10. A motion for a temporary restraining order and preliminary injunction was filed on February 17, 2022. See Doc. No. 6. After screening the amended complaint as required by 28 U.S.C. § 1915A, Magistrate Judge Clare R. Hochhalter issued a Report and Recommendation on May 2, 2022, in which he recommended that most of the claims be dismissed. See Doc. No. 18. A second Report and Recommendation was issued on May 2, 2022, and recommended that the motion for a temporary restraining order be denied. See Doc. No. 19. The Plaintiff was given until May 20, 2022, to file objections to the Report and Recommendations. On May 19, 2022, the Plaintiff filed an objection. See Doc. No. 26.

The Court has carefully reviewed both of the Reports and Recommendations, the relevant case law, the Plaintiff's objection, and the entire record, and finds the Reports and Recommendations to be persuasive. The Court finds the Plaintiff's objection unpersuasive. Claims One, Two, and Three fail as a matter of law. Based upon a liberal construction of the complaint, the Court will allow claim four to go forward. The official capacity claims fail, as does the claim against Molly Goebel.

The Court **ADOPTS** the Reports and Recommendations (Doc. Nos. 18 and 19) in their entirety and **ORDERS** as follows:

- 1) Claim Nos. 1, 2, and 3 are **DISMISSED WITH PREJUDICE**.
- 2) The claim for damages against the Defendants in their official capacities are **DISMISSED WITH PREJUDICE**.
- 3) The claim against Molly Goebel is **DISMISSED WITH PREJUDICE**.
- 4) The Plaintiff is permitted at this stage to proceed with Claim No. 4.
- 5) The Plaintiff's motion for a temporary restraining order (Doc. No. 6) is **DENIED**.
- 6) The Clerk of the District Court is directed to effectuate service of the complaint (Doc. No. 10) on the named Defendants along with a copy of the court's screening order making clear what claim(s) the Plaintiff is permitted to proceed with.

**IT IS SO ORDERED.**

Dated this 24<sup>th</sup> day of June, 2022.

/s/ Daniel L. Hovland  
Daniel L. Hovland, District Judge  
United States District Court